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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2010-622

12 **JAMES RAY DEMEDICI**

13 **911 Hammond Drive**
14 **North Augusta, SC 29841**

ACCUSATION

15 **Registered Nurse License No. 682815**

16
17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about July 10, 2006, the Board of Registered Nursing issued Registered Nurse
25 Number 682815 to James Ray DeMedici (Respondent). The Registered Nurse was in full force
26 and effect at all times relevant to the charges brought herein and will expire on April 30, 2012,
27 unless renewed.

28 **JURISDICTION**

1 3. This Accusation is brought before the Board of Registered Nursing (Board),
2 Department of Consumer Affairs, under the authority of the following laws. All section
3 references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 118 of the Code states in pertinent part:

5 "... (b) The suspension, expiration, or forfeiture by operation of law of a license issued by
6 a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
7 order of a court of law, or its surrender without the written consent of the board, shall not, during
8 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
9 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
10 provided by law or to enter an order suspending or revoking the license or otherwise taking
11 disciplinary action against the licensee on any such ground.

12 "(c) As used in this section, 'board' includes an individual who is authorized by any
13 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'
14 'registration,' and 'permit.'"

15 5. Section 2750 of the Code states:

16 "~~Every certificate holder or licensee, including licensees holding temporary licenses, or~~
17 licensees holding licenses placed in an inactive status, may be disciplined as provided in this
18 article [Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.)]. As used in
19 this article, "license" includes certificate, registration, or any other authorization to engage in
20 practice regulated by this chapter. The proceedings under this article shall be conducted in
21 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
22 the Government Code [the Administrative Procedure Act], and the board shall have all the powers
23 granted therein."

24 6. Section 2764 of the Code states:

25 "The lapsing or suspension of a license by operation of law or by order or decision of the
26 board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the
27 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
28 against such license, or to render a decision suspending or revoking such license."

STATUTORY PROVISIONS

7. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, ...

"... (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

"... (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

"(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Section 2762 of the Code states in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"... (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
2 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
3 or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof."

6 9. Section 482 of the Code states:

7 "Each board under the provisions of this code shall develop criteria to evaluate the
8 rehabilitation of a person when:

9 "(a) Considering the denial of a license by the board under Section 480; or

10 "(b) Considering suspension or revocation of a license under Section 490.

11 "Each board shall take into account all competent evidence of rehabilitation furnished by
12 the applicant or licensee."

13 10. Section 490 of the Code states in pertinent part:

14 "(a) In addition to any other action that a board is permitted to take against a licensee, a
15 board may suspend or revoke a license on the ground that the licensee has been convicted of a
16 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
17 or profession for which the license was issued.

18 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
19 discipline a licensee for conviction of a crime that is independent of the authority granted under
20 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
21 of the business or profession for which the licensee's license was issued.

22 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
23 conviction following a plea of nolo contendere. Any action that a board is permitted to take
24 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
25 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
26 made suspending the imposition of sentence, irrespective of a subsequent order under the
27 provisions of Section 1203.4 of the Penal Code...."

28 11. Section 493 of the Code states:

1 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
2 the department pursuant to law to deny an application for a license or to suspend or revoke a
3 license or otherwise take disciplinary action against a person who holds a license, upon the
4 ground that the applicant or the licensee has been convicted of a crime substantially related to the
5 qualifications, functions, and duties of the licensee in question, the record of conviction of the
6 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
7 and the board may inquire into the circumstances surrounding the commission of the crime in
8 order to fix the degree of discipline or to determine if the conviction is substantially related to the
9 qualifications, functions, and duties of the licensee in question.

10 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
11 'registration.'"

12 REGULATORY PROVISIONS

13 12. California Code of Regulations, title 16, section 1444, states:

14 "A conviction or act shall be considered to be substantially related to the qualifications,
15 functions or duties of a registered nurse if to a substantial degree it evidences the present or
16 ~~potential unfitness of a registered nurse to practice in a manner consistent with the public health,~~
17 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

18 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
19 subdivision (d) of Penal Code Section 11160.

20 "(b) Failure to comply with any mandatory reporting requirements.

21 "(c) Theft, dishonesty, fraud, or deceit.

22 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
23 Penal Code."

24 13. California Code of Regulations, title 16, section 1445 states in pertinent part:

25 "... (b) When considering the suspension or revocation of a license on the grounds that a
26 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
27 person and his/her eligibility for a license will consider the following criteria:

28 "(1) Nature and severity of the act(s) or offense(s).

1 “(2) Total criminal record.

2 “(3) The time that has elapsed since commission of the act(s) or offense(s).

3 “(4) Whether the licensee has complied with any terms of parole, probation, restitution or
4 any other sanctions lawfully imposed against the licensee.

5 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
6 Penal Code.

7 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

8 **FIRST CAUSE FOR DISCIPLINE**

9 (February 18, 2009 Conviction for Driving Under the Influence of Alcohol on
10 December 13, 2008)

11 14. Respondent is subject to disciplinary action for unprofessional conduct under sections
12 490 and 2762(c) and 2761(d) and (f) in that Respondent was convicted of a misdemeanor
13 violation of California Vehicle Code section 23152(b) by guilty plea in the County of San Diego,
14 South County Division criminal case, *People v. James Ray DeMedici*, case number S226086 on
15 or about February 18, 2009. The circumstances are as follows:

16 15. On or about December, 13, 2008, at approximately 23:40, Respondent, while
17 employed as a registered nurse at Scripps Memorial Hospital, was stopped by an officer of the
18 Coronado Police Department, while driving a 2008 Nissan Sentra in Coronado, CA at a high rate
19 of speed; estimated by the officer at approximately 80 m.p.h. After investigation, Respondent was
20 placed under arrest for driving while intoxicated.

21 a. On or about February 4, 2009, the Office of the District Attorney filed a misdemeanor
22 complaint against Respondent entitled *People v. James Ray DeMedici*, case number S226086,
23 alleging in Count 1 violation of California Vehicle Code (“CVC”) section 23152(a) Driving
24 Under Influence of Alcohol/Drugs, and in Count 2, violation of CVC section 23152(b) Driving
25 While Having a Measurable Blood Alcohol.

26 b. On or about February 18, 2009, Respondent’s plea of guilty to Count 2 was accepted
27 and plaintiff was placed on probation. Among the terms of probation, Respondent was to enroll
28 in and complete a First Conviction Program.

1 c. Respondent failed to comply with the terms of probation, specifically to enroll in and
2 complete a First Conviction Program. The court revoked Respondent's probation on or about
3 June 24, 2009, and issued a bench warrant for his arrest that remains outstanding as of the date of
4 this Accusation.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Unprofessional Conduct: Use of Alcohol in a Manner Dangerous to Self or Others)

7 16. Respondent is subject to disciplinary action for unprofessional conduct under section
8 490 and 2762(b), use of alcohol in a manner dangerous to himself or others in that Respondent,
9 was convicted of a violation of California Vehicle Code section 23152(b) by guilty plea. The
10 circumstances are more fully set forth in paragraphs 14-15 above and incorporated herein by
11 reference.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Criminal Charges filed on May 15, 2009, involving conduct on November 13-18, 2008)

14 17. Respondent is subject to disciplinary action for unprofessional conduct under section
15 2761(a), unprofessional conduct, in that Respondent has been charged with violation of Penal
16 Code ("PC") section 530.5(A), willfully and unlawfully obtaining personal identifying
17 information of another between November 13-18, 2008, and violation of PC section 653M(B), in
18 that Respondent made repeated telephone calls and contacts during the same period of time with
19 an electronic device with intent to annoy another person at their residence. The circumstances are
20 as follows:

21 18. Complainant alleges that Respondent's former girlfriend, T.T., filed a report with the
22 Riverside County Sheriff's Department alleging that Respondent assumed a false identity and
23 placed derogatory information about T.T. on an adult website, "Adult Friend Finder".

24 After investigation by the Sheriff's Department, the Riverside County District Attorney's
25 Office filed a criminal complaint in the Riverside Superior Court on May 15, 2009, against
26 Respondent entitled, *People v. James R. DeMedici, AKA: James Ray DeMedici, AKA James Ray*
27 *DeMedici, AKA: James Ray Jennings, DOB: 03/30/1971*, case number RIM 531946. Said
28 criminal complaint alleged violation of Penal Code section 530.5(A), a misdemeanor, alleging

1 that between November 13, 2008, and November 18, 2008, Respondent willfully and unlawfully
2 obtained personal identifying information of another, to wit T.T., to attempt to obtain credit,
3 goods, and services in the name of another person without consent; and violation of Penal Code
4 section 653M(B), a misdemeanor, alleging that during the same period in November 2008
5 Respondent willfully and unlawfully made repeated telephone calls and contact by means of an
6 electronic communication device with the intent to annoy another person at that person's
7 residence.

8 In regard to this matter, Respondent failed to appear at his arraignment, which resulted in
9 the issuance of a bench warrant for Respondent.

10 FOURTH CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct: Making or Giving False Statement or Information in Connection
12 with an Application for Issuance of a Certificate or License.)

13 19. Respondent is subject to disciplinary action for unprofessional conduct under
14 sections 490 and 2761(a) and (e) in that Respondent provided a false statement or information in
15 connection with his application for licensure as a Registered Nurse in South Carolina. The
16 ~~circumstances are referred to in paragraphs 17-18 above and incorporated by reference and as~~
17 follows:

18 20. On or about July 27, 2009, Respondent completed and submitted an application to the
19 South Carolina Department of Labor, Licensing and Regulation, Office of Licensure and
20 Compliance seeking a Registered Nurse License. On page 8 of the application, in response to the
21 question: "1. Have you ever been convicted pled guilty, or nolo contendere for violation of any
22 federal, state, or local law, or do you have charges pending (other than minor traffic violation)?
23 (If yes, attach a detailed letter of explanation and have a state criminal background check sent
24 directly to the SC Board of Nursing)", Respondent declared "No".

25 Further, in response to the question, "2. Have you ever had any investigation, formal
26 complaint, disciplinary action or consent order filed against you by any person, hospital, or
27 nursing board in any jurisdiction? (If yes, attach a detailed letter of explanation. Send a request to
28

1 the board issuing the disciplinary action for a copy of the Final Order to be sent directly to the SC
2 Board of Nursing.), Respondent stated "No".

3 **FIFTH CAUSE FOR DISCIPLINE**

4 (Unprofessional Conduct: Discipline by South Carolina.)

5 21. Respondent is subject to disciplinary action for unprofessional conduct under sections
6 490 and 2761(a)(4) in that Respondent has been subject to disciplinary action by the State of
7 South Carolina. The circumstances are set forth in part in paragraphs 14 through and including
8 20 above and incorporated herein by reference and additionally as follows:

9 22. In March 2010, the South Carolina Department of Labor, Licensing & Regulation,
10 Before the Board of Nursing, entered a Consent Agreement with Respondent. Respondent signed
11 the Consent Agreement on March 5, 2010, counsel for the Board signed the Consent Agreement
12 on March 9, 2010, and the President of the Board of Nursing signed the Consent Agreement on
13 March 22, 2010.

14 In the Consent Agreement, Respondent admitted certain facts, including his guilty
15 plea for Driving Under the Influence and related charges in the Superior Court of California,
16 County of San Diego on February 18, 2009; the Misdemeanor Complaint filed in the County of
17 Riverside California for obtaining and using personal identifying information of another person
18 without consent, and making repeated phone calls and repeated contact by electronic
19 communication with the intent to annoy another which is pending; and inaccurately responding to
20 questions on his South Carolina Application for Nursing Licensure by Endorsement.

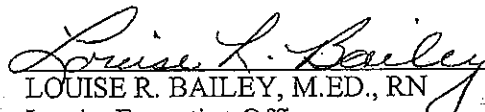
21 In the Consent Agreement, Respondent agreed that his admissions constituted
22 violations of certain South Carolina statutes and sufficient grounds for disciplinary or corrective
23 action. The Consent Agreement resulted in the issuance of a Public Reprimand containing
24 specific conditions of discipline.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Registered Nursing issue a decision:
28

- 1 1. Revoking or suspending Registered Nurse License Number 682815, issued to James
2 Ray DeMedici James Ray DeMedici.
- 3 2. Ordering James Ray DeMedici to pay the Board of Registered Nursing the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code section 125.3;
- 6 3. Taking such other and further action as deemed necessary and proper.

7
8 DATED: 6/3/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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